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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,023	12/16/2005	Maarten Michiels	TYR-P0004	1884
27268	7590	11/03/2006		
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			EXAMINER ANDERSON, GUY G	
			ART UNIT	PAPER NUMBER
			2883	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/561,023

Applicant(s)

MICHIELS, MAARTEN

Examiner

Guy G. Anderson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/16/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Oath/Declaration*

1.1 The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

1.2 The oath or declaration is defective because: The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602. It was not executed in accordance with either 37 CFR 1.66 or 1.68. It does not include the notary's signature, or the notary's signature is in the wrong place. It does not include the notary's seal and venue.

1.3 Applicant has filed the oath that was intended for the PCT application. Applicant is required to file a new oath in accordance with 37 C.F.R 1.63-1.69.

### *Claim Rejections - 35 USC § 102*

2.1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2.2 **Claims 1-10, 15-28 are rejected** under 35 U.S.C. 102(b) as being anticipated by US-5835658 to Smith.

**Regarding Claims 1-10, 15-28**, Smith specifically discloses an optical fiber cable splice closure assembly comprising/wherein:

1) a casing which is capable of being closed around a cable splice, and at least one cable retention means for retaining the end of at least one cable fed into the interior of the closure through or adjacent to a seal, the said retention means being capable of being tightened, in use, to seal against and retain the said cable substantially independently of and compressive force applied to the retention means by the casing. [Fig. 1-11, Abstract.]

2) the retention means is capable of being opened so that it may be placed substantially around the cable or the seal and the cable and closed to hold the seal against the cable.

[Fig. 1-11, Abstract.]

- 3) the said retention means applies a pre-determined load to the seal and cable when closed.  
[Fig. 1-11, Abstract.]
- 4) the seal is resilient. [Fig. 1-11, Abstract.]
- 5) the seal comprises at least one aperture or slot for receiving a length of cable being fed into the closure. [Fig. 1-11, Abstract.]
- 6) the seal comprises an elastomeric material. [Fig. 1-11, Abstract.]
- 7) the seal comprises a layer of gel type material and an outer layer of elastomeric material.  
[Fig. 1-11, Abstract.]
- 9) the retention means substantially surrounds the seal and cable.
- 10) the retention means comprises at least two clamping members which are capable of being brought together to hold the seal against the said cable. [Fig. 1-11, Abstract.]
- 15) the said clamping members are held together by fastening means. [Fig. 1-11, Abstract.]
- 16) the said fastening means is/are hand operable. [Fig. 1-11, Abstract.]
- 17) the said fastening means comprises a latch. [Fig. 1-11, Abstract.]
- 18) the said latch comprises an over the centre type latch. [Fig. 9, Abstract.]
- 19) the said retention means is retained in the interior of the closure by engagement with the said casing. [Fig. 1-11, Abstract.]
- 20) the casing parts comprise a pair of half shells which are capable of being brought together along respective opposing edges thereof to close the closure. [Fig. 1-11, Abstract.]
- 21) the said casing is provided with fastening means for holding the casing in a closed configuration thereby retaining the said retention means in the interior of the closure.  
[Fig. 1-11, Abstract.]
- 22) a plurality of said cable retention means. [Fig. 1-11, Abstract.]
- 23) the casing comprises at least one open end for feeding the said cable into the interior of the closure, and at least one of the said cable retention means is positioned at the or each open end for closing that end of the closure. [Fig. 1-11, Abstract.]
- 24) a pair of cable retention means are provided, in spaced relation, at the or each open end of the closure. [Fig. 1-11, Abstract.]
- 25) at least two casing parts which are capable of being brought together to close the closure.

26) a casing which is capable of being closed to close the closure; at least one compressible seal; and, at least one cable retention means for retaining the end of at least one cable fed into the interior of the closure through or adjacent to a compressible seal, the said retention means being capable of being tightened, in use, to compress the seal around the said cable to retain the said cable substantially independently of any force applied to the retention means by the casing parts. [Fig. 1-11, Abstract.]

27) A cable retention unit for a cable splice closure of the type having at least two casing parts which are capable of being closed around a cable splice, the retention unit being capable of being opened so that it may be placed substantially around a cable or cables to be relined, and comprising closure means for applying a pre-determined clamping load to the cables when the retention unit is closed. [Fig. 1-11, Abstract.]

28) the closure means comprises at least one over the centre latch means. [Fig. 9.]

[See also Smith at Fig. 1-11, Abstract, Col. 2-11, Lines 1-67.]

2.3 **Claims 1, 10-14 are rejected** under 35 U.S.C. 102(b) as being anticipated by US-5397859 to Robertson et al.

**Regarding Claims 1, 10-14,** Robertson specifically discloses a cable splice enclosure assembly comprising/wherein:

1) a casing which is capable of being closed around a cable splice, and at least one cable retention means for retaining the end of at least one cable fed into the interior of the closure through or adjacent to a seal, the said retention means being capable of being tightened, in use, to seal against and retain the said cable substantially independently of and compressive force applied to the retention means by the casing. [Fig. 1-6, Abstract.]

10) the retention means comprises at least two clamping members which are capable of being brought together to hold the seal against the said cable. [Fig. 1-6, Abstract.]

11) the said retention means comprises a pair of clamping members which are pivotally movable with respect to each other. [Fig. 1-6, Abstract.]

12) the said clamping members are hinged together. [Fig. 1-6, Abstract.]

13) the said clamping members are generally arcuate so that they are capable of surrounding the said cable and seal when brought together. [Fig. 1-6, Abstract.]

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14) the clamping members are connected together to provide a clamping ring around the said cable when brought together. [Fig. 1-6, Abstract.]

[See also Robertson at Fig. 1-6, Abstract, Col. 2-6, and Lines 1-67.]

### ***Claim Rejections - 35 USC § 103***

3.1 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

3.2 **Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US-5835658 to Smith as applied to Claims 1 and 6 above.

**Regarding Claim 8**, Smith discloses all of the limitations of the base claims upon which Claim 8 depends.

Smith discloses the use of adhesively backed tape and mastic sealants. [Smith at Abstract.] Smith does not specifically disclose an enclosure wherein:

8) the elastomeric material comprises a thermoplastic polymer.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted thermoplastic polymer for mastic sealant, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

### ***Conclusion***

4.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy G. Anderson whose telephone number is 571.272.8045. The examiner can normally be reached on M-Th 1130-2200.

4.2 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571.272.2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

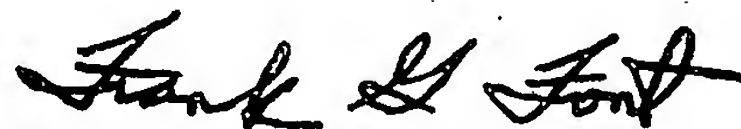
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4.3 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4.4 Date and signature of assistant examiner.



October 25, 2006



Frank G. Font  
Supervisory Patent Examiner  
Technology Center 2800